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REMARKS

This Amendment is being submitted along with an accompanying Request for Continued Examination (RCE) under 37 CFR § 1.114. Applicant respectfully requests reconsideration of the present application in view of the amendments above and the following remarks, which are responsive to the final Office Action of October 18, 2005. In the present Amendment, Applicant amends Claims 1, 7, 29, and 46; cancels Claims 6, 9, 45, 50, 52, 67, 69-74, 86, and 88-89; and adds new Claims 90-95. Therefore, Claims 1-5, 7-8, 10-22, 26, 28-32, 43-44, 46, 49, 51, 53-63, and 90-95 are at issue as presented.

Claim Rejections – 35 U.S.C. § 102

On Page 2 of the Office Action, Claims 1-5, 8-22, 26, 28-32, 43-44, 49-63, 67, 69-74, 86, and 88-89 were rejected under 35 U.S.C. §102(e) as being anticipated by *Wood* (U.S. Pub. No. 2003/0146836 A1). In the present amendment, Applicant cancels Claims 9, 50, 52, 67, 69-74, 86, and 88-89 without prejudice rendering argument to those claims moot. To anticipate a claim, the cited reference must teach every element of the claim. *See* MPEP 2131; *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Independent Claims 1 and 29 have been amended to include limitations similar to those recited in dependent Claims 6 and 45, respectively. Specifically, independent Claims 1 and 29 have each been amended to include the limitation “wherein the environmental sensor associated with said product comprises a visual indicator for indicating to handlers of said product that the environmental condition of said product has transcended a limit and said product is to be rerouted to said second receiver.” As noted by the Examiner on page 16 of the Office Action, *Wood* does not teach or suggest that the environmental sensor comprises a visual indicator. Accordingly, because *Wood* does not teach or suggest all of the limitations of independent Claims 1 and 29, as amended, Applicant respectfully requests that the rejection of these claims be withdrawn.

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Claim Rejections – 35 U.S.C. § 103

On Page 15 of the Office Action, Claims 6-7 and 45-46 were rejected under Section 103(a) as being unpatentable over *Wood* as applied to Claims 1 and 29, and further in view of *Easley* (U.S. Pub. No. 2005/0073406 A1). In general, a proper rejection under 35 U.S.C. § 103(a) requires that: (1) the prior art references teach or suggest all of the features of the claimed invention; (2) there is some suggestion or motivation to modify or combine the prior art references; and, (3) there is a reasonable expectation of success in combining the prior art references. See MPEP 2142; *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

As noted above, independent Claims 1 and 29 have been amended to include the limitations of Claims 6 and 45, respectively. Specifically, independent Claims 1 and 29 have each been amended to include the limitation “wherein the environmental sensor associated with said product comprises a visual indicator for indicating to handlers of said product that the environmental condition of said product has transcended a limit and said product is to be rerouted to said second receiver.” On page 16 of the Office Action, the Examiner concedes that *Wood* does not teach or suggest the use of an environmental sensor comprising a visual indicator, and so relies upon *Easley* to provide this teaching. In support of these assertions, the Examiner cites several passages in *Easley*, including page 3, paragraph [0048], and page 4, paragraph [0062].

Easley claims priority to US Provisional Application No. 60/499,338, which was filed on Sep. 3, 2003; *Easley* itself was filed on Sep. 3, 2004. Because *Easley*'s non-provisional filing date is after the filing date of the subject application, Applicant notes that any material disclosed therein that is not disclosed in the corresponding provisional application does not provide a proper grounds for rejection. In light of having performed a thorough review of the provisional application to which *Easley* claims domestic priority, Applicant respectfully submits that the *Easley* provisional nowhere discloses the use of an environmental sensor comprising a visual indicator as recited in independent Claims 1 and 29 (as amended).

Accordingly, Applicant respectfully submits that none of the cited references, including *Wood* and *Easley*, either alone or in combination, teach or suggest all of the limitations of

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amended Claims 1 and 29. Applicant, therefore, respectfully requests that the rejection of these claims be withdrawn.

Dependent Claims 2-5, 7-22, 26, 28, 30-32, 43-44, and 49-63

Claims 2-5, 7-22, 26, and 28 depend from independent Claim 1, and Claims 30-32, 43-44, and 49-63 depend from independent Claim 29. Claims 2-5, 7-22, 26, and 28, and Claims 30-32, 43-44, and 49-63 thus include all of the limitations of their respective base claim plus additional limitations that further define the invention over the cited references. Accordingly, Applicant respectfully asserts that these dependent claims are patentable for at least the reasons set forth above in regard to their respective corresponding independent claims.

New Claims 90-95

Newly added Claims 90-92 depend directly from Claim 29, and newly added Claims 93-95 depend directly from Claim 1. These dependent claims include all of the limitations of their respective base claims plus additional limitations that further define the invention over the cited references. For example, Claim 90 recites the limitation wherein the visual indicator comprises a sensor strip that changes color in response to the environmental condition of the product transcending a limit. Claim 91 further recites the limitation wherein the sensor strip comprises a paper thermometer or liquid crystal temperature strip that changes color in response to a change in temperature. Support for these claims can be found on page 14 of the specification. Accordingly, allowance of newly added Claims 90-95 is respectfully requested.

Conclusion

In view of the remarks presented above, it is respectfully submitted that Claims 1-5, 7-8, 10-22, 26, 28-32, 43-44, 46, 49, 51, 53-63, and 90-95 of the application are now in condition for allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney at (404) 881-7452 to resolve any remaining issues in order to expedite examination of the present application.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office at Fax No. (571) 273-8300 on the date shown below.


Shelley Victoria

January 18, 2006
Date